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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/083,702 | 02/26/2002 | Michael J. O'Phelan | 279.087US3 | 2486 |

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EXAMINER

OROPEZA, FRANCES P

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3762

9

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/083,702

Applicant(s)

O'PHELAN ET AL.

Examiner

Frances P. Oropeza

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/8/04 (Amendment).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-11 and 16-31 is/are pending in the application.
- 4a) Of the above claim(s) 7, 16 and 18-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5, 6, 8-11, 17 and 22-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1.5.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/ Restriction

1. Claims 7, 16 and 18-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant's election was made in Paper No. 8.

The Applicant states claims 5-11 and 16-31 are pending. The Examiner disagrees. The Applicant elected species one and four, hence claims 5 and 6 were elected. Claims 8-11 and 17 were deemed generic. Dependent claim 31 was added as a linking claim, hence claims 27-29 and 31 are included in the claims to be prosecuted. The Applicant stated dependent claim 30 is a linking claim for claims 18-21, but the claim limitation in claim 18 of "each recess having a depth less than the header thickness" is not found in claim 8, and claim 5 does not limit the fasteners to aluminum fasteners, hence claims 18-21 are not being prosecuted. In addition, species five was not elected, hence claims 7 and 16 are not being prosecuted. Upon review, it appears claims 22-26 are a similar invention to claim 5 and should be prosecuted.

The following claims are being prosecuted: 5, 6, 8-11, 17 and 22-31.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 5, 6, 8-11, 17 and 22-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Phelan et al. (US 6275729) in view of Carino (US 4047790).

O'Phelan et al. disclose an electrolytic capacitor substantially as claimed in the instant invention. (abstract; figures 1 and 2; col. 4 @ 28 – col. 5 @ 39). O'Phelan et al. discloses the claimed invention except for the header comprising recesses.

Carino teaches fastener stabilization using recesses in the header for the purpose of securing the fastener in place and sealing the capacitor. It would have been obvious to one having ordinary skill in the art at the time of the invention to have used recesses in the header in the O'Phelan et al. system in order to avoid the manufacturing step and expense associated with sealing the fasteners with epoxy and to prolong the life of the capacitor by providing a high integrity seal so the electrolytic fluid is retained in the capacitor (abstract; figure 5; col. 1 @ 31-50; col. 2 @ 41-58; col. 4 @ 22 – col. 6 @ 8).

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4. Claims 5, 6, 8, 17, 22, and 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kent et al. (US 4546415) in view of Carino (US 4047790).

Kent et al. disclose an aluminum electrolytic capacitor substantially as claimed in the instant invention. (abstract; figure 3; col. 3 @ 56 – col. 4 @ 30). Kent et al. disclose the claimed invention except for the header comprising recesses.

Carino teaches fastener stabilization using recesses in the header for the purpose of securing the fastener in place and sealing the capacitor. It would have been obvious to one having ordinary skill in the art at the time of the invention to have used recesses in the header in the Kent et al. system in order to avoid the manufacturing step and expense associated with sealing the fasteners with epoxy and to prolong the life of the capacitor by providing a high integrity seal so the electrolytic fluid is retained in the capacitor (abstract; figure 5; col. 1 @ 31-50; col. 2 @ 41-58; col. 4 @ 22 – col. 6 @ 8).

5. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kent et al. (US 4546415) in view of Carino (US 4047790) and further in view of Rubin (US 6040974). As discussed in paragraph 4 of this action, modified Kent et al. disclose the claimed invention except for the header comprising two layers of different materials.

Rubin teaches header composition using a multi-layered header for the purpose of achieving high heat tolerances for capacitors while using inexpensive materials. The Applicant teaches the use of two or three or more layers in the header assembly. The Applicant notes in the specification that “the header assembly is not limited to any particular layered structure, dimensional selection, or composition (specification – page 7, lines 1-7), hence absent any teaching of criticality of unexpected result, it would be

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obvious to substitute the three layer construction of the header as taught by Rubin for the two layer construction of the header as claimed by the Applicant as a mere design choice.

It would have been obvious to one having ordinary skill in the art at the time of the invention to have used the multi-layer header in the modified Kent et al. system in order to provide an inexpensive yet effective seal to retain the electrolyte in the capacitor, hence reducing the cost and increasing the life of the capacitor (abstract; figures 1-4; col. 1 @ 3 – col. 2 @ 6).

6. Claims 5, 6, 8, 17, 22-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dain et al. (US 4802064) in view of Carino (US 4047790).

Dain et al. disclose an aluminum electrolytic capacitor substantially as claimed in the instant invention. (abstract; figure 1; col. 2 @ 36-68). Dain et al. disclose the claimed invention except for the header comprising recesses.

Carino teaches fastener stabilization using recesses in the header for the purpose of securing the fastener in place and sealing the capacitor. It would have been obvious to one having ordinary skill in the art at the time of the invention to have used recesses in the header in the Dain et al. system in order to avoid the manufacturing step and expense associated with sealing the fasteners with epoxy and to prolong the life of the capacitor by providing a high integrity seal so the electrolytic fluid is retained in the capacitor (abstract; figure 5; col. 1 @ 31-50; col. 2 @ 41-58; col. 4 @ 22 – col. 6 @ 8).

7. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dain et al. (US 4546415) in view of Carino (US 4047790) and further in view of Rubin

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(US 6040974). As discussed in paragraph 6 of this action, modified Dain et al. disclose the claimed invention except for the header comprising two layers of different materials.

Rubin teaches header composition using a multi-layered header for the purpose of achieving high heat tolerances for capacitors while using inexpensive materials. The Applicant teaches the use of two or three or more layers in the header assembly. The Applicant notes in the specification that "the header assembly is not limited to any particular layered structure, dimensional selection, or composition (specification – page 7, lines 1-7), hence absent any teaching of criticality of unexpected result, it would be obvious to substitute the three layer construction of the header as taught by Rubin for the two layer construction of the header as claimed by the Applicant as a mere design choice. It would have been obvious to one having ordinary skill in the art at the time of the invention to have used the multi-layer header in the modified Dain et al. system in order to provide an inexpensive yet effective seal to retain the electrolyte in the capacitor, hence reducing the cost and increasing the life of the capacitor (abstract; figures 1-4; col. 1 @ 3 – col. 2 @ 6).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frances P. Oropeza whose telephone number is (703) 605-4355. The examiner can normally be reached Monday through Friday from 9 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela D. Sykes, can be reached on (703) 308-5181.

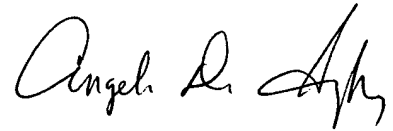
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The telephone number for facsimiles for regular communication and After Final communications is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0858.

Frances P. Oropeza
Patent Examiner
Art Unit 3762

FPO
2/14/04



**ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER
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